

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

L.M., a minor by and through his
father and stepmother, Christopher
and Susan Morrison,

Plaintiff,

v.

**TOWN OF MIDDLEBOROUGH;
MIDDLEBOROUGH SCHOOL
COMMITTEE; CAROLYN J.
LYONS**, Superintendent of the
Middleborough Public Schools, in her
official capacity; and **HEATHER
TUCKER**, acting Principal of Nichols
Middle School, in her official capacity,

Defendants.

CASE NO.: 23-cv-11111

Honorable Judge Indira Talwani

JOINT MOTION TO STAY PROCEEDINGS PENDING APPEAL

Pursuant to Fed. R. Civ. P. 29 and L.R. 7.1, Plaintiff L.M. and Defendants, Town of Middleborough, Middleborough School Committee, Carolyn J. Lyons, and Heather Tucker hereby move the Court to stay proceedings in this Court pending the resolution of the appeal of the Court's order of June 16, 2023. In support of this motion, the Parties state as follows:

1. This Court denied Plaintiff's motion for a preliminary injunction [Doc. No. 12] based on Plaintiff's First and Fourteenth Amendment claims on June 16, 2023 [Doc. No. 51].
2. On June 21, 2023, this Court set a Scheduling Conference for July 12, 2023 and directed the parties to confer under Fed R. Civ. P. 26(f) and to prepare a proposed scheduling order. [Doc. No. 52].
3. The parties are working jointly to comply with the Court's June 21 Order.

4. On June 23, 2023, Plaintiff filed a Notice of Appeal, in which Plaintiff appeals to the United States Court of Appeals for the First Circuit from this Court's June 16 Order. [Doc. No. 53].

5. Plaintiff's counsel have conferred with Defendants' counsel, and all parties agree in seeking the relief requested in this motion.

6. "The District Court has broad discretion to stay proceedings as an incident to its power to control its own docket." *Katz v. Liberty Power Corp., LLC*, No. 18-cv-10506-ADB, 2020 WL 3440886, *3 (D. Mass. June 23, 2020) (quoting *Clinton v. Jones*, 520 U.S. 681, 706–07 (1997)). "That power 'is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.'" *Bank of Am., N.A. v. WRT Realty, L.P.*, 769 F. Supp. 2d 36, 39 (D. Mass. 2011) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)).

7. "Deciding whether to stay proceedings involves balancing the interests of the parties and the Court." *Id.* "A stay is appropriate where it is 'likely to conserve judicial and party time, resources, and energy.'" *Id.* (quoting *Diomed, Inc. v. Total Vein Sols., LLC*, 498 F. Supp. 2d 385, 387 (D. Mass. 2007)).

8. Here, all factors weigh in favor of granting the requested stay. All parties concur that a stay would increase their economy of time and effort in this litigation.

9. The parties further believe that a stay of proceedings will conserve judicial time, resources, and energy, in that the result of the Plaintiff's appeal is likely to affect the issues going forward, the scope of discovery, the need (or lack thereof) for expert testimony, and the prospects for proceeding on the basis of stipulations. In light of this, the parties and the Court may expend resources in setting a discovery schedule at the upcoming July 12 Scheduling Conference that

ends up needing substantial modification in light of the disposition of Plaintiff's appeal.

10. Accordingly, a stay of further proceedings in this Court until after the First Circuit renders a decision on Plaintiff's interlocutory appeal will conserve the resources of all parties and the Court by avoiding further proceedings that could be potentially impacted or rendered unnecessary by a decision of the court of appeals and would not prejudice either party.

CONCLUSION

For the foregoing reasons, the parties request that the Court grant their joint motion to stay district court proceedings pending appeal.

Respectfully submitted this 26th day of June, 2023.

s/ Deborah I. Ecker

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CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2023, I electronically filed the foregoing using the CM/ECF system, which automatically sends an electronic notification with this filing to the following attorneys of record:

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Dated June 26, 2023

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